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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Joseph W. Baumgarte

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STEFAN V. CHMIELEWSKI  
DELPHI TECHNOLOGIES, INC.  
Legal Staff Mail Code: CT10C  
P.O. Box 9005  
Kokomo, IN 46904-9005

EXAMINER

WEISKOPF, MARIE

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/784,491	<b>Applicant(s)</b> BAUMGARTE, JOSEPH W.	
	<b>Examiner</b> Marie A. Weiskopf	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-10,12-16,18,19 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-10,12-16,18,19 and 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 7-10, 12-14, 16, 18-19, 21, and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens et al (US 2002/0010542) in view of Lee et al (US 2004/0187011). Ahrens et al was discussed in the previous office action and Lee et al discloses a prevention of unauthorized software distribution.

- In regard to claim 1, Ahrens et al discloses a system for distributing software to a storage medium located on a vehicle, the system comprising:
  - A transmission device and a vehicle software file, wherein the transmission device provides for making the vehicle software file accessible (Paragraph 11, lines 2-8)

Ahrens et al fails to disclose specifically the load device, wherein the load device is a general purpose computer operated by a person having access to the vehicle, wherein the load device provides for loading the vehicle software file onto the vehicle storage medium and wherein the vehicle software file is encrypted with a vehicle identification number. Lee et al, however, discloses all of the above:

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- A load device is a general computer operated by a person having access to the vehicle (Paragraphs 31 and 32)
- Wherein the load device provides for loading the vehicle software file onto the vehicle storage medium (Paragraph 31)
- Where the vehicle software file is encrypted using a vehicle identification number unique to the vehicle, whereby it cannot be loaded onto any other vehicle (Paragraph 26)

It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the disclosure of Ahrens with the teachings of Lee et al in regard to the loading of software because as can be seen in Ahrens, there is a need to validate the software used to make sure only an authorized user is downloading the software (Paragraph 61) and Lee et al further teaches the need to use a specific vehicle identification number to prevent the software from being downloaded onto multiple vehicles even if used by an authorized person to download the information. (Paragraph 22)

- In regard to claim 2, Lee et al discloses a recipient device, wherein the recipient device provides for receiving the vehicle software file from the transmission device, and wherein the recipient devices provides for distributing the vehicle software file to the load device (Paragraphs 29-32)
- In regard to claim 7, Ahrens discloses wherein the load device is operated by a non-technical user (Paragraph 57)

- In regard to claims 8 and 9, Ahrens discloses wherein the vehicle software file is made accessible to the load device in a tangible medium (Paragraph 54). It would have been obvious to one having ordinary skill in the art at the time of the invention to send the tangible medium to the user in any form that easiest for the user to receive, such as mailing or picking up at different stations.
- In regard to claim 10, Lee et al discloses wherein the load device provides for loading the vehicle software file onto the vehicle storage medium through a wireless network (Paragraph 29)
- In regard to claim 12, Ahrens et al discloses encrypting the software files with identification (Paragraphs 60-63) and Lee et al discloses the use of encrypting the software with a vehicle identification number so it can only be used by such authorized vehicles. (Paragraphs 26-29)
- In regard to claim 13, Ahrens discloses wherein the vehicle software file is an upgrade to a navigation application (Paragraph 57)
- In regard to claim 14, Ahrens discloses wherein the transmission device provides for making the vehicle software file accessible to the load device by:
  - Creating and mailing a CD-ROM or DVD to an address associated with the load device (Paragraph 54). As discussed before, Ahrens discusses providing the data on a CD-ROM and a DVD, however, sending that to the user can be done any way that is quickest and easiest for the user
  - E-mailing the vehicle software file as an attachment (Paragraphs 108-109)

Lee et al discloses the use of making the vehicle software file downloadable from a website (Paragraph 29)

- In regard to claim 16, Lee et al discloses wherein the load device loads the vehicle software file onto the vehicle storage medium by connection the load device to the vehicle storage medium with a USB connection (Paragraph 30)
- In regard to claim 18, Ahrens discloses wherein the plurality of vehicle software files include a user-assistance file that is not loaded onto any of the vehicle storage media (Paragraph 82; Paragraphs 100-101)
- In regard to claim 19, Ahrens discloses wherein the vehicle hard drives are accessible to general purpose computers without removing the vehicle storage media from the vehicles (Paragraph 35)
- In regard to claim 23, Ahrens discloses further comprising installing a vehicle hard drive into the vehicle that is configured to be removable and accessible from the general purpose computer (Paragraph 35)
- In regard to claim 24, wherein a request for the vehicle software file is sent as an e-mail from a recipient device, and the vehicle software file is received electronically from the recipient device (Paragraph 109; Paragraph 115)
- In regard to claim 25, Ahrens et al discloses a method of distributing upgraded vehicle software files to vehicle storage media through the use of general purpose computers under the control of vehicle users, the method comprising:
  - Encrypting the software file with identification data (Paragraph 39)

- Transmitting the vehicle software file to a plurality of different recipients, wherein each recipient receives a copy of the vehicle software file that corresponds to an identification (Paragraphs 74-75)
- Prohibiting the loading of any copy of the vehicle software file on a vehicle hard drive where the identification does not correspond to the identification serving as the encryption key for the vehicle software file (Paragraph 70; Paragraph 45; Paragraphs 60-62)

Ahrens et al, however, fails to disclose encrypting the software with a vehicle identification number as the unique key, allowing each of the recipients to load his particular copy of the vehicle software file on a vehicle hard drive in a vehicle having a vehicle identification number corresponding to the encryption key for the particular copy of the vehicle software file. Lee et al discloses all of the above, as can be seen in Paragraphs 22, 26, and 31. It would have been obvious to one having ordinary skill in the art at the time of the invention to use the teachings of vehicle identification number encryption and need as taught by Lee et al with the disclosure of Ahrens in order to make sure that software is loaded only into authorized vehicles.

- In regard to claim 26, Ahrens discloses wherein a plurality of loading options are made available to each recipient and wherein a default loading option is automatically identified in accordance with a recipient profile (Paragraph 57)
- In regard to claim 27, Ahrens discloses further comprising receiving a plurality of recipient profiles from a plurality of recipients, wherein each recipient profiles

specify the frequency of permitted vehicle software file transmission (Paragraph 57)

- In regard to claim 28, Ahrens discloses wherein the vehicle software file relates to an upgrade for a navigation being paid for by a recipient of a subscription basis (Paragraph 57)
- In regard to claim 29, Ahrens discloses wherein a receiving device associated with a recipient initiates a link with the vehicle hard drive (Paragraph 54)
- In regard to claim 30, Lee et al discloses wherein the vehicle hard drive is accessible to a plurality of embedded computer devices within the vehicle (Figure 2, processor 204)
- In regard to claim 31, Ahrens discloses wherein the recipient receives the vehicle software file through a recipient device, wherein the recipient loads the vehicle software file through a load device, and wherein the recipient device is not the load device (Paragraphs 58-59; Figs. 8A-8G)

3. Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens et al (US 2002/0010542) and Lee et al (US 2004/0187011) as applied to claims 1 and 25 above, and further in view of Kottapurath et al (US 6,553,490). Ahrens et al and Lee et al fail to disclose loading of vehicle software files in less than it would take to load the files from a CD-Rom, i.e. 75% and 60%, but Kottapurath discloses this concept. (Column 1, lines 45-49) The actual numerical percentage of the reduced loading time is not mentioned as it will depend on the hardware used i.e. speed of the processor, drive access speed, etc. It would have been obvious to one having ordinary

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skill in the art at the time of the invention to combine the disclosures of Ahrens et al and Lee et al with the teachings of Kottapurath to obtain increased loading speeds as compared to the use of the CD-ROM drive for loading the vehicle software files.

4. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ahrens in view of Lee et al as applied to claim 25 above, and further in view of Laguer-Diaz et al (US 6,580,983). Ahrens and Lee et al fail to disclose that the vehicle software files relating to an identical component type are generated and transmitted in a substantially simultaneous manner, however, Laguer-Diaz et al does disclose this (Abstract; Column 4, lines 7-13). It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the disclosures of Ahrens and Lee with the teachings of Laguer-Diaz et al to simultaneously generate and transmit vehicle software files relating to an identical component type.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie A. Weiskopf whose telephone number is (571) 272-6288. The examiner can normally be reached on Monday-Thursday between 7:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MW



**THOMAS BLACK**  
**SUPERVISORY PATENT EXAMINER**